

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 22ND FEBRUARY 2007 / 3RD PHALGUNA 1928

WP(C).No. 18211 of 2005(R)

PETITIONER:

**M/S. MANITO ELECTRONICS LTD.,
B.C. ROAD, BEYPORE, KOZHIKODE, REPRESENTED BY ITS
CHAIRMAN K.NITHYANANDAN NAIR.**

BY ADV. SRI.R.RAMADAS.

RESPONDENTS:

- 1. THE DIRECTOR OF INDUSTRIES AND COMMERCE,
THIRUVANANTHAPURAM.**
- 2. THE GENERAL MANAGER,
DISTRICT INDUSTRIES CENTRE, KOZHIKODE.**
- 3. THE DISTRICT LEVEL COMMITTEE,
DISTRICT INDUSTRIES CENTER, KOZHIKODE,
REPRESENTED BY ITS CHAIRMAN.**
- 4. THE DEPUTY COMMISSIONER,
COMMERCIAL TAXES, KOZHIKODE.**
- 5. THE ASSISTANT COMMISSIONER (ASSESSMENT),
SPECIAL CIRCLE I, KOZHIKODE.**

BY GOVERNMENT PLEADER SRI. MOHAMMED RAFIQ.

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 22/02/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

W.P.(C). NO.18211/2005:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE ORDER DTD. 17/09/2004.

EXT.P.2: COPY OF THE LETTER DTD. 31/03/2005 ISSUED BY THE R.2. TO THE PETITIONER.

EXT.P.3: COPY OF THE PROCEEDINGS OF THE R.4. DTD. 08/12/2004.

EXT.P.4: COPY OF THE ORDER DTD. 27/12/2004 OF THE R.4.

//TRUE COPY//

prv.

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 18211 OF 2005-R

JUDGMENT

The petitioner is an industrial unit. Though, it moved the District Level Committee of the District Industries Centre, Kozhikode, claiming exemption from payment of sales tax under the relevant orders of the Government, its application was rejected by the said Committee. The petitioner appealed. The State Level Committee allowed the appeal and remanded the matter for fresh decision by the original authority, by Ext.P1 order. The District Level Committee again considered the matter and rejected the claim of the petitioner by Ext.P2 communication, which reads as follows:

“Please refer to the above. I am to inform that the District Level Committee held at 3.45 PM on 18.3.05 on Sales Tax Exemption, has resolved to reject the Sales Tax Exemption appeal due to the reason that 'the assessment for the period, which the STE claimed is already over, and could not be reviewed'.”

This Writ Petition was filed, challenging Ext.P2.

2. The petitioner submits, at the relevant time, the assessment of sales tax for the period was not, in fact, finalised. On suo motu revision the

appellate authority set aside the assessment and remitted it for fresh determination by the assessing authority in accordance with law. Even assuming it is finalised, still, the petitioner submits, exemption can be granted and armed with the exemption order, it can move the appellate authority by filing an appeal or move the assessing authority by filing a rectification petition. So, the stand taken in Ext.P2 is unsustainable, it is submitted.

3. I heard the learned Government Pleader for the respondents also. I find considerable force in the submission of the petitioner. The District Level Committee need not be concerned about the stage of assessment of the sales tax. Whatever be the stage, if the petitioner is entitled to get the benefit of exemption, it should be granted the same. It is declared so. So, Ext.P2 is quashed and the matter is remitted to the 3rd respondent. The said respondent shall consider the claim of the petitioner for exemption from payment of sales tax in accordance with law within one month from the date of production of a copy of this judgment.

The Writ Petition is disposed of as above.

22nd February, 2007.

K.BALAKRISHNAN NAIR, JUDGE.

Nm/